

REMARKS

This amendment is responsive to the Office Action of April 29, 2011. Reexamination and reconsideration of the application are respectfully requested.

The Office Action

Claims 1, 3, 4, 6, and 10 stand rejected under 35 USC §103(a) as being unpatentable over Firner (US Patent No. 2,132,529).

Claims 3–10 stand rejected under 35 USC §103(a) as being unpatentable over Firner as applied to **claim 1**, pages 1–3 of the Specification, and further in view of www.comco-ikarus.de/ (2003).

The Claims of the Present Application Distinguish Over the Cited References

Claim 1 recites a cabin cell wide enough for two adjacent passenger seats. The claim also recites an aeroplane of the ultra light class and sport plane category, having a maximum take-off weight (MTOW) of between 452.5 kg and 590 kg. The aeroplane includes a central tube, having at least a 200 mm diameter, extending along a longitudinal axis of the aeroplane. A space, limited on a lower side by a virtual flat cabin floor, has free remaining space above the virtual flat cabin floor presenting an orthorhombic space of at least 190 cm in length, at least 34 cm wide, and at least 40 cm in height for receiving a person lying on a stretcher for air-transporting of said person.

The Examiner relies on MPEP §2125 when pointing to FIGURE 2 of Firner as suggesting a cabin large enough to accommodate a stretcher. However, MPEP §2125 states when a reference does not disclose that the drawings are to scale and is silent as to dimensions, arguments based on measurement of the drawing features are of little value. Firner provides absolutely no disclosure, or suggestion, that the figures of that

reference are to scale and, furthermore, provides no dimensions (or states that the cabin is large enough to accommodate a stretcher). In order to fit in Firner's airplane, the Examiner acknowledges the stretcher would have to extend from the element 24 rearward and, possibly, into the volume defined by element 44, or even into the volume defined by element 43. Even if Firner did disclose dimensions for the drawings or state that the drawings are to scale to suggest the stretcher would fit in the plane, the bars 20, 21 would obstruct passage of the stretcher past the I-bar 14 and into the volumes defined by elements 44, 43. Furthermore, even if the stretcher could pass beyond the I-bar 14, the bars 20, 21 would force the end of the stretcher toward the rear of the plane to be raised and/or tilted/rotated in order to pass over the bars 20, 21, which would result in the stretcher lying in an unstable, awkward manner not suitable for a patient on a stretcher. Additionally, if the stretcher extended from the element 24, there would be no room in Firner's airplane to accommodate two adjacent passenger seats in the cabin, as recited in **claim 1**.

For the reasons discussed above, Firner fails to disclose, or even suggest, a cabin wide enough for two adjacent passenger seats and large enough to accommodate an orthorhombic space of at least 190 cm in length, at least 34 cm wide, and at least 40 cm in height for receiving a person lying on a stretcher for air-transporting of said person, as recited in **claim 1**.

In addition, as acknowledged by the Examiner, Firner fails to disclose an MTOW of between 452.5 kg and 590 kg, as recited in **claim 1**. Although the Examiner asserts it obvious to one of ordinary skill in the art to provide lightweight materials to produce an aircraft with substantially reduced weight, the Applicant respectfully submits the Examiner does not appreciate how ambitious and challenging it is—even using modern lightweight materials—to design an aircraft with an MTOW limited to 590 kg that still offers a cabin spacious enough to receive a person lying on a stretcher for air-transportation while providing a width for two adjacent passenger seats. In addition, the Examiner has not provided any evidence to support his assertion. Designing an airplane

to meet the limitations of **claim 1** is a veritable battle to eliminate as much weight as necessary to meet the recited MTOW while still providing enough room for transporting a patient on a stretcher (not simply providing sleeping space while the plane is on the ground) and two adjacent passenger seats, as recited in **claim 1**. Achieving the aeroplane recited in **claim 1** does not simply involve substituting lighter materials for a conventionally designed airplane. If designing the claimed aeroplane merely involved substituting lightweight materials for a conventionally designed airplane, the aeroplane recited in **claim 1** would have been designed long ago.

For the reasons discussed above, **claim 1** and **claims 3–11**, which depend therefrom, are patentable over Firner.

US Patent Nos. 5,490,703; 5,785,277; 5,779,296; 6,585,188; 4,783,025; and 4,637,575 were merely cited as disclosing small aircraft that can serve to accommodate a person laying on a stretcher in a lightweight aircraft. None of these references, either alone or in combination, overcome the deficiencies of Firner.

Pages 1–3 of the specification were merely cited as disclosing ultralight or ecolight aeroplanes. The IKARUS C42 reference were merely cited as disclosing lightweight materials. Neither pages 1–3 of the specification nor the IKARUS C42 reference, either alone or in combination, overcome the deficiencies of Firner.

Therefore, for the reasons discussed above, **claim 1** and **claims 3–11**, which depend therefrom, are patentable over Firner, US Patent Nos. 5,490,703; 5,785,277; 5,779,296; 6,585,188; 4,783,025; and 4,637,575, pages 1–3 of the specification and the IKARUS C42 reference, either taken alone or in combination.

New **claim 11** recites the central tube extends an entire length of the aeroplane. Firner fails to disclose an aeroplane of the ultra light class and sport plane category having a cabin cell wide enough for two adjacent passenger seats, a maximum take-off weight (MTOW) of between 452.5 kg and 590 kg, a central tube with at least a 200 mm

diameter, extending an entire length of the aeroplane along a longitudinal axis of the aeroplane, a space limited on a lower side by a virtual flat cabin floor having free remaining space above the virtual flat cabin floor presenting an orthorhombic space of at least 190 cm in length, at least 34 cm wide, and at least 40 cm in height for receiving a person lying on a stretcher for air-transporting of said person, as recited in **claim 11**. None of US Patent Nos. 5,490,703; 5,785,277; 5,779,296; 6,585,188; 4,783,025; and 4,637,575, pages 1–3 of the specification and the IKARUS C42 reference overcome the deficiency of Firner. Therefore, **claim 11** is patentable over Firner, US Patent Nos. 5,490,703; 5,785,277; 5,779,296; 6,585,188; 4,783,025; and 4,637,575, pages 1–3 of the specification and the IKARUS C42 reference, either taken alone or in combination.

CONCLUSION

For the foregoing reasons, it is submitted that the claims of the present application are in condition for allowance. Early notice thereof is respectfully requested.

Should the Commissioner decide that any fee or fee deficiency is due, the Commissioner is hereby authorized to charge any and all such fees, and/or credit any overpayments, incurred as a result of entering this amendment to Deposit Account No. 03-0172, Order No. 30887.04002.

Respectfully submitted,

CALFEE, HALTER & GRISWOLD LLP

/Brian E. Kondas/
Brian E. Kondas
Reg. No. 40,685
Customer No. 24024
(216) 622-8308